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OFFICE OF PETITIONS

In re Patent No. 7,094,874	:	DECISION ON REQUEST
Peach et al.	:	FOR RECONSIDERATION OF
Issue Date: August 22, 2006	:	DECISION ON
Application No. 09/865,321	:	REQUEST FOR
Filed: May 23, 2001	:	RECONSIDERATION OF
Atty Docket No. D0028PNP;	:	PATENT TERM ADJUSTMENT
30436.57USU1	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "RESPONSE TO DECISION ON SECOND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed February 29, 2008. Patentees request that the revised Patent Term Adjustment shown on the above captioned patent (and on the Certificate of Correction issued March 27, 2007) be corrected to two hundred sixty-one (261) days.

The second request for reconsideration of the decision of February 21, 2007 is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of another certificate of correction showing a revised Patent Term Adjustment of two hundred sixty-one (**261**) days.

On August 22, 2006, the above-identified application matured into U.S. Patent No. 7,094,874 with a revised patent term adjustment of 253 days. By decision mailed February 21, 2007, the request for reconsideration of patent term adjustment filed October 20, 2006 was granted-in-part. By certificate of correction issued March 27, 2007, the patent term adjustment indicated in the patent was corrected to ONE HUNDRED EIGHTY

(180) days. This correction was based in part on entry of a period of reduction of 81 days pursuant to 37 CFR 1.704(c)(7).

The 81-day reduction is at issue. The decision mailed February 21, 2007 entered the reduction on the basis that the response filed October 24, 2005 included an omission as reflected by the mailing of a Notice of Non-compliant Amendment on November 14, 2005. As the further response correcting the omission was filed on January 13, 2006, a period of reduction of 81 days was entered.

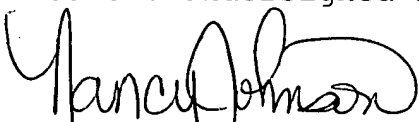
Patentees' arguments as set forth on instant request for reconsideration, in light of the Office's action at the time of filing of the paper on January 13, 2006, has been reconsidered and found persuasive. It is concluded that entry of a period of reduction of 81 days on decision on request for reconsideration of patent term adjustment was not warranted.

Accordingly, the decision on application for patent term adjustment has been reconsidered and the reinstatement of 81 days of patent term is granted.

The \$200.00 fee set forth in 37 CFR 1.18(e) was submitted on request for reconsideration of patent term adjustment filed October 20, 2006. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue another certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred sixty-one **(261)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,094,874 B2

DATED : August 22, 2006

DRAFT

INVENTOR(S) : Peach et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 253 days

Delete the phrase "by 253 days" and insert – by 261 days--